

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Randy Campney

v.

Civil No. 06-cv-297-JD

Superintendent, Bare Hill
Correctional Facility

Procedural Order

Randy Campney, proceeding pro se, seeks relief pursuant to 28 U.S.C. § 2254 from his conviction in Grafton County Superior Court on charges of burglary and theft by unauthorized taking. The Superintendent of the Bare Hill Correctional Facility, where Campney is incarcerated, filed a motion for summary judgment, which was denied without prejudice to allow time for Campney to complete pending state court proceedings on his claims. After receiving notice that the state court proceedings were resolved, the court issued an order that the case could proceed and directed the Superintendent to file a motion for summary judgment on or before October 9, 2009.

On October 9, 2009, the Superintendent filed "Respondent's Supplemental Memorandum in Support of the Motion for Summary Judgment" but failed to file a motion for summary judgment. Doc. no. 79. Because the Superintendent's previous motion for summary judgment was denied, no motion was pending that could be

supplemented. To the extent the Superintendent may rely on references to his prior motion and memorandum, those filings are no longer pending and will not be considered for purposes of a new motion for summary judgment. Campney has not filed a response to the "Supplemental Memorandum," which may be because he did not recognize the "Supplemental Memorandum" as a motion.

Under the local rules of this district, "[a]ll motions must contain the word 'motion' in the title." LR 7.1(a)(1). The Superintendent's "Supplemental Memorandum" does not comply with the local rule. To avoid confusion, the Superintendent shall file a motion for summary judgment, accompanied by a properly supported memorandum, with its supporting exhibits, that contains all of the arguments and appropriate evidentiary support which the Superintendent offers for summary judgment without reference to or reliance on prior filings. Campney shall file his response to the motion within thirty days of the date the motion is filed.

Conclusion

For the foregoing reasons, the Superintendent shall file a motion for summary judgment, with an accompanying memorandum and evidentiary support, **on or before December 22, 2009**. Campney shall file his response within thirty days from the date the motion is filed.

SO ORDERED.


Joseph A. DiClerico, Jr.
United States District Judge

December 14, 2009

cc: Randy S. Campney, Sr., pro se
Stephen D. Fuller, Esquire
Susan P. McGinnis, Esquire
Elizabeth C. Woodcock, Esquire